

ASSEMBLY BILL

No. 1680

Introduced by Assembly Member Alquist

January 15, 1998

An act to amend Sections 1328, 1334, and 1376 of the Unemployment Insurance Code, relating to unemployment insurance.

LEGISLATIVE COUNSEL'S DIGEST

AB 1680, as introduced, Alquist. Unemployment insurance.

Existing law provides for the payment of unemployment compensation benefits to certain unemployed persons. Existing law provides for the review of initial claims by the Employment Development Department, for the appeal of the initial determination as to whether or not to provide unemployment compensation benefits, and the further review of the appeal by the California Unemployment Insurance Appeals Board.

This bill would require the department to provide a claimant with an appeal form after the initial determination and the initial appeal, and to provide the appellant with a list of public agencies that offer services for claimants who wish to file an appeal. This bill would impose similar requirements on the department in connection with a determination of an overpayment.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 1328 of the Unemployment
2 Insurance Code is amended to read:

3 1328. The department shall consider the facts
4 submitted by an employer pursuant to Section 1327 and,
5 if benefits are claimed subsequent to the filing of the new
6 or additional claim, make a determination as to the
7 claimant's eligibility for benefits. The department shall
8 promptly notify the claimant and any employer who
9 prior to the determination has submitted any facts or
10 given any notice pursuant to Section 1327 or this section
11 and authorized regulations of the determination or
12 reconsidered determination and the reasons therefor. ~~If~~

13 *The department shall also provide the claimant, along*
14 *with the notice of determination, an appeal form. In*
15 *addition to the appeal form, the department shall be*
16 *responsible for providing the claimant with a list of public*
17 *agencies that offer services for claimants who wish to file*
18 *an appeal.*

19 *If* after notice of a determination or reconsidered
20 determination the employing unit acquires knowledge of
21 facts which may affect the eligibility of the claimant and
22 such facts could not reasonably have been known within
23 the 10-day period provided by Section 1327, the
24 employing unit shall within 10 days of acquiring such
25 knowledge submit such facts to the department, and such
26 10-day period may be extended for good cause. The
27 claimant and any such employer may appeal from a
28 determination or reconsidered determination to an
29 administrative law judge within 20 days from mailing or
30 personal service of notice of the determination or
31 reconsidered determination. The 20-day period may be
32 extended for good cause, which shall include, but not be
33 limited to, mistake, inadvertence, surprise, or excusable
34 neglect. The director shall be an interested party to any
35 appeal.

36 SEC. 2. Section 1334 of the Unemployment Insurance
37 Code is amended to read:



1 1334. An administrative law judge after affording a
 2 reasonable opportunity for fair hearing, shall, unless ~~such~~
 3 ~~that~~ appeal is withdrawn, affirm, reverse, modify, or set
 4 aside any determination ~~which~~ *that* is appealed under this
 5 article. The claimant, any employer becoming a party to
 6 the appeal by submitting a protest or information
 7 pursuant to Sections 1326 to 1333, inclusive, ~~of this article,~~
 8 and the director shall be promptly notified in writing of
 9 the administrative law judge's decision, together with his
 10 *or her* reasons therefor. *The department shall also*
 11 *provide the claimant, along with the notice of decision, an*
 12 *appeal form. In addition to the appeal form, the*
 13 *department shall be responsible for providing the*
 14 *claimant with a list of public agencies that offer services*
 15 *for claimants who wish to file an appeal.* The decision
 16 shall be final unless, within 20 days after mailing of such
 17 decision, further appeal is initiated to the appeals board
 18 pursuant to Section 1336. The 20-day limitation may be
 19 extended for good cause.

20 "Good cause," as used in this section, shall include, but
 21 not be limited to, mistake, inadvertence, surprise, or
 22 excusable neglect.

23 SEC. 3. Section 1376 of the Unemployment Insurance
 24 Code is amended to read:

25 1376. The Director of Employment Development
 26 shall determine the amount of the overpayment and any
 27 assessment authorized under Section 1375.1 and shall
 28 notify the liable person of the basis of the overpayment
 29 determination. *The department shall also provide the*
 30 *liable person, along with the notice of overpayment, an*
 31 *appeal form. In addition to the appeal form, the*
 32 *department shall be responsible for providing the*
 33 *claimant with a list of public agencies that offer services*
 34 *for claimants who wish to file an appeal with the board.*

35 In the absence of fraud, misrepresentation, or willful
 36 nondisclosure, notice of the overpayment determination
 37 shall be mailed or personally served within the latest of
 38 the following periods:

39 (a) Not later than one year after the close of the
 40 benefit year in which the overpayment was made.

1 (b) Not later than six months after the date a backpay
2 award was made.

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